
C O U N C I L C O M M U N I C A T I O N

TO: THE CITY COUNCIL
FROM: THE CITY MANAGER'S OFFICE

COUNCIL MEETING DATE
APRIL 18, 1990

SUBJECT: COUNCIL CONSIDERATIOE OF HOME OCCUPATION PERMIT ORDINANCE

PREPARED BY: City Attorney

RECCMMENDED ACTION: Council consideration of attached home occupation
 permit ordinance.

BACKGROUND INFORMATION: **As** directed by the City Council, the attached draft ordinance regulating home occupation permits was referred to the Planning Commission for consideration at its meeting of March 26, 1990. Although the specific situation which triggered the evaluation **of** the home occupation permit regulations involved a request far a nail salon in a residential district, the entire home occupation permit ordinance was examined by the Planning Commission and recommendations addressed the topic generally. These recommendations are categorized below:

USES:

The overall recommendation of the Planning Commission **was** to endorse the draft ordinance. However, by a four-to-one vote, the Planning Commission recommended that a subsection (I) be added to 17.08.010 which would include in the list of uses not eligible for a home occupation permit:

I. Any business or activity in which it is usual or customary for the clients or customers to come to the location for which the permit is sought.

The purpose **of this** clause **is** to prohibit the types of business in which clients come to the location on either a walk-in or scheduled basis. The Planning Commission acknowledged this would not allow a nail salon in a residential district, but felt the intent **of** the home occupation permit regulations should be to allow only uses in which the home is used in the nature **of** an office, for sales or service: provided elsewhere.

For purposes of clarity, it **was** also recommended that Section 17.08.030 (I) be modified to read:

1. ~~is~~ the only home occupation conducted at the specified address. For purposes of this section, a use shall be deemed "the only home occupation conducted" at a location if it involves services or goods of essentially one type, even though the owner may have more than one business name, or be required to obtain more than one professional certification or business license.

ORDINANCE NO. 1484

AN ORDINANCE OF THE LODI CITY COUNCIL
REPEALING LODI MUNICIPAL CODE SECTION 17.03.290 DEFINING
"HOME OCCUPATION" AND REENACTING SAME, AND ADDING TO TITLE 17 - ZONING,
A NEW CHAPTER 17.08 RELATING TO HOME OCCUPATION PERMITS.

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Section 17.03.290 - Definitions -
Home Occupation - is hereby repealed and reenacted as follows:

17.03.290 HOME OCCUPATION.

"Home occupation" means any use customarily carried on or
conducted entirely within a dwelling by the residents thereof,
without assistants, which use is clearly incidental to the
residential use of the premises and does not change the character
thereof. "

SECTION 2. Lodi Municipal Code Title 17 - Zoning - is hereby amended
by adding a new Chapter 17.08 - Home Occupation Permits - as follows:

Chapter 17.08 HOME OCCUPATION PERMITS

17.08.010 EXCLUDED USES.

The following uses shall not be deemed "home occupations":

- A. Hospitals;
- B. Clinics;
- C. Private schools;
- D. Real estate offices;

- E. Insurance offices;
- F. Animal hospitals;
- G. Kennels;
- H. Animal boarding facilities;
- 1. Any business **or** activity in which it is usual or customary for the clients or customers to come to the location **for** which the permit is sought.

17.08.020 PROCEDURES FOR ISSUANCE

Home occupation permits may be issued by the Community Development Director pursuant to the following procedures :

A. The permit shall state the home occupations permitted, the conditions attached, and any time limitations.

B. All home occupation permits shall be personal to the owner or resident of the premises to whom it is issued, and shall be non-transferrable to different parties or premises.

C. Applicants for a home occupations permit shall be required to agree in writing to comply with all conditions imposed.

D. A home occupations permit may be revoked by the Community Development Director or the Planning Commission upon failure of the holder to comply with **any** of the conditions or limitations of approval.

E. In the event **of** denial **by** the Community Development Director, the applicant may file a written notice **of** appeal with the Planning Commission not later than ten days following such denial or revocation. The Planning Commission shall hold at least one public hearing on such appeal and written notice of the time and place of such hearing shall

be given to the applicant and all property owners within three hundred feet of the subject property.

F. Any decision by the Planning Commission may be appealed to the City Council within ten days thereof by filing written notice with the City Clerk, accompanied by such fees as shall from time to time be set or established by resolution of the City Council. The City Council shall hold at least one public hearing on such appeal. Notice of the time and place of such hearing shall be given as set forth above. The City Council shall have ultimate discretion in interpreting and applying this ordinance .

17.08.030 CONDITIONS OF ISSUANCE

All home occupation permits issued hereunder shall be subject to the conditions described below. Such proposed uses shall:

A. Be conducted entirely within the main dwelling and limited to no more than one room.

B. Not be carried out by persons other than the residents living at the premises.

C. Be clearly incidental to the use of the dwelling for residential purposes, and will not change the residential character of the dwelling or neighborhood.

D. Not substantially increase vehicular or pedestrian traffic in the immediate area of the dwelling.

E. Not involve the use of power driven equipment having a motor or motors of more than one-half horsepower.

F. Not use signs except an unlit sign not exceeding two square feet flush-mounted parallel to the front of the building, identifying the name **of** the business conducted therein.

G. Not create a nuisance by reason of noise, odor, dust, vibration, **fumes**, smoke, electrical interference, increased traffic, or other causes.

H. **Be** the only home occupation conducted at the specified address. For purposes of this section, a use shall **be deemed** "the only home occupation Conducted" at a location if it involves services or goods of essentially one type, even though the owner **may** have more than one business name, or be required to obtain more than one professional certification or business license.

1. **Be** subject to such special conditions as the Community Development Director, Planning Commission or City Council **may** require.

17.08.040 REVOCATION.

A. Any home occupations permit issued hereunder may **be** subject to revocation for failure to comply with the conditions attached thereto or specified in this chapter. Such revocation shall be commenced **by** giving notice to the holder **of** such permit **by** the Community Development Director *of* his intent to recommend revocation to the Planning Commission. Thereafter, not less than **ten** days after notice to the permit holder by the Community Development Director, a public hearing shall be conducted by the Planning Commission.

B. Any person or party dissatisfied with the results of the hearing conducted **by** the Planning Commission *may* appeal such decision

to the City Council by filing a notice of appeal with the City Clerk not more than ten days following such decision.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar **as** such conflict may exist.

SECTION 4. This ordinance shall be published **one time in** the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall **be** in force and take effect **thirty** days from and after its passage and approval.

Approved this day of

JOHN R. SNIDER
Mayor

Attest:

ALICE M. REIMCHE
City Clerk

=====

State of California
County **of** San Joaquin, **ss.**

I, Alice M. Reimche, City Clerk **of** the City of Lodi, do hereby certify that Ordinance **No. 1484** was introduced at a regular meeting of the City Council **of** the City **of** Lodi held April 18, 1990 and was thereafter passed, adopted **and** ordered to print at a regular meeting of said **Council held** _____, 1990 by the following vote:

Ayes : Council Members -
Noes : Council Members -
Absent: Council Members -
Abstain: Council Members -

I further certify that Ordinance No. 1484 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

ALICE M. REIMCHE
City Clerk

Approved as to Form

BOBBY W. McNATT
City Attorney

ORD1484/TXTA.01V



CITY OF LODI

CARNEGIE FORUM
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: April 18, 1990

Time: 7:30 p.m.

For information regarding this Public Hearing
Please Contact:

Alice M. Reimche

City Clerk

Telephone: 333-6702

NOTICE OF PUBLIC HEARING

April 18, 1990

NOTICE IS HEREBY GIVEN that on Wednesday, at the hour of 7:30 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing to **consider** the following matter:

The Planning Commission's recommendation that **Title 17** of the Lodi Municipal Code be amended:

1. to modify the definition of Home Occupation; and
2. to add new Chapter 17.08, Home Occupation Permits.

All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order Of the Lodi City Council:

Alice M. Reimche
City Clerk

Dated: April 4, 1990

Approved as to form:

Bobby W. McNatt
City Attorney

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be given to the applicant and all property owners within three hundred feet of the subject property.

F. Any decision by the Planning Commission may be appealed to the City Council within ten days thereof **by** filing written notice with the City Clerk, accompanied **by** such fees **as** shall from time to time be set or established by resolution of the City Council. The City Council shall hold at least one public hearing on such appeal. Notice of the time and place of such hearing shall be given **as** set forth above. The City Council shall have ultimate discretion in interpreting and applying this ordinance.

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E. Not involve the use of power driven equipment having a motor or motors of more than one-half horsepower.

F. Not use signs except an unlit sign not exceeding two square feet flush-mounted parallel to the front of the building, identifying the name of the business conducted therein.

G. Not create a nuisance by reason of noise, odor, dust, vibration, fumes, smoke, electrical interference, increased traffic, or other causes.

H. Be the only home occupation conducted at the specified address. For purposes of this section, a use shall be deemed "the only home occupation conducted" at a location if it involves services or goods of essentially one type, even though the owner may have more than one business name, or be required to obtain more than one professional certification or business license.

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Approved this day of

JOHN R. SNIDER
Mayor

Attest:

ALICE M. REIMCHE
City Clerk

State of California
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of Lodi held _____, 1990 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 1990 by the following vote:

Ayes : Council Members -
Noes: Council Members -
Absent: Council Members -
Abstain: Council Members -

I further certify that Ordinance No. _____ was approved and signed
by the Mayor on the date of its passage and the same has been published
pursuant to law.

ALICE M. REIMCHE
City Clerk

Approved as to Form

BOBBY W. McNATT
City Attorney

ORDHOMOC/TXTA.01V

CITY COUNCIL MEETING
APRIL 18, 1990

For purposes of clarity, it was also recommended that Section **17.08.030** (I) be modified to read:

1. Be the only home occupation conducted at the specified address. For purposes of this section, a use shall be deemed "the **only home** occupation conducted" at a location if it involves services or **goods** of essentially one type, even though the owner may have more than one business name, or be required to obtain more than one professional certification or business license.

This was intended to address a situation such as a consultant who provides services on more than one topic, but who still desires to operate as a one-person business out of a residence.

PARKING .

The Planning Commission also suggested that Section **17.08.030(G)**, which stated that home occupations shall "(n)ot involve the parking of more than on2 vehicle, which shall be of a noncommercial nature" be deleted entirely, based on difficulties in determining the definition of a "commercial vehicle" and the fact that if no customers come to the location, no parking problems should result.

The final draft ordinance also provides in Section **17.08.030(F)** that signs be "flush"-mounted parallel to the front of the building. The word "flush" was inadvertently omitted in the original draft.

The position of the Community Development Director is that these proposed changes will have no effect on existing home occupation permits, since he is unaware of any permits presently held which would not also fit within the proposed guidelines .

The draft ordinance presented for Council's review had been modified to reflect the suggestions and recommendations of the Planning Commission.

The following persons addressed the City Council regarding the matter:

- a) Penny Gamaza, 1010 Augusta Street, Woodbridge
- b) Lou Fugazi, 925 Greenwood Drive, Lodi
- c) Sharon Dados, 701 Junewood, Lodi

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The position of the Community Development Director is that these proposed changes will have no effect on existing home occupation permits, since he is unaware of any permits presently held which would not also fit within the proposed guidelines.

The attached draft has been modified to reflect the suggestions and recommendations of the Planning Commission.

Respectfully submitted,



BOB McNATT
City Attorney

CITY COUNCIL MEETING
APRIL 18, 1990

There being no other persons in the audience wishing to speak on the matter, the public portion of the hearing was closed.

Mayor Snider informed the Council and public that Council Member Olson had asked that he relate that she is very sympathetic to Mrs. Gamaza and her desire to work in her home.

following discussion, on motion of Mayor Pro Tempore Hinchman, Reid second, the City Council introduced Ordinance No. 1484 - An Ordinance of the Lodi City Council Repealing Lodi Municipal Code Section 17.03.290 Defining "Home Occupation" and reenacting same, and adding to Title 17 - Zoning, a new Chapter 17.08 Relating to Home Occupation Permits.